

TOWN OF EATONVILLE

Agenda Staff Report

Agenda Item No.:		Meeting Date:	June 27, 2016
Subject:	Ordinance No. 2016-12 Adopting a	Prepared by:	Town Attorney
	New Chapter 13.36 "Renewable Energy		
	Cost Recovery Incentive Program"	Atty Routing No:	033-15
		Atty Review Date:	June 22, 2016

Summary: As noted in the staff report for the ordinance adopting procedures and regulations for net electric metering, over the past several years, the state of Washington has adopted regulations to encourage private investment in renewable energy resources and to enhance the diversification of the energy resources used in the state. In furtherance of these goals, the Washington Department of Revenue has established an incentive payment program for owners of eligible renewable energy systems. In order for Eatonville's utility customers to take advantage of this program, it is necessary for the town to adopt local regulations that are consistent with chapter 82.16 RCW and WAC 458-20-273 "Renewable energy system cost recovery."

The proposed new EMC chapter 13.36 establishes procedures to enable the Town's electric utility customers to qualify for benefits through the state's renewable energy system cost recovery incentive program. The program authorizes an incentive payment based on energy production to offset the costs incurred by customers who purchase qualifying renewable energy systems. The incentive payment is paid to the customer by the local utility. The local utility is then entitled to offset amounts paid to customers by taking a dollar for dollar credit against the utility's public utility tax liability. Materials prepared by the Washington Department of Revenue are attached and provide more details regarding the cost recovery incentive program. This program is voluntary. The town of Steilacoom and Elmhurst Mutual Power and Light are two local utilities that have adopted similar regulations.

Recommendation: Staff recommends adoption of Ordinance No. 2016-12 amending Eatonville Municipal Code by adding a new chapter 13.36 "Renewable Energy Cost Recovery Incentive Program."

Motion for consideration: I move to approve the first reading of Ordinance No. 2016-12 amending Eatonville Municipal Code by adding a new chapter 13. 36 "Renewable Energy Cost Recovery Incentive Program."

Fiscal Impact: None.

Attachments: Ordinance No. 2016-12
Washington State Department of Revenue notices and publications

ORDINANCE NO. 2016-12

**AN ORDINANCE OF THE TOWN OF EATONVILLE,
WASHINGTON, AMENDING THE EATONVILLE MUNICIPAL
CODE BY ADOPTING A NEW CHAPTER 13.36 “RENEWABLE
ENERGY COST RECOVERY INCENTIVE PROGRAM”**

WHEREAS, the Town of Eatonville owns and operates an electrical distribution system that provides electrical services within town limits; and

WHEREAS, in recent years, the state of Washington has adopted regulations to encourage private investment in renewable energy resources and to continue the diversification of the energy resources used in the state; and

WHEREAS, the Council of the Town of Eatonville wishes to amend the Eatonville Municipal Code by adding a new chapter 13.36 “Renewable Energy Cost Recovery Incentive Program” to incent customers of the Town’s electric utility to purchase qualifying renewable energy systems; and

WHEREAS, the Council of the Town of Eatonville having found the new chapter 13.36 to be reasonable and in the public interest; now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF EATONVILLE
AS FOLLOWS:**

Section 1. Eatonville Municipal Code Title 13 “Public Services” is amended by adding a new chapter 13.36 “Renewable Energy Cost Recovery Incentive Program,” a copy of which is attached hereto as Exhibit A and incorporated by this reference.

Section 2. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. This ordinance shall take effect after publication of a summary, consisting of the title, pursuant to RCW 35.27.300.

1ST READING: 06/27/2016

2ND READING: / /2016

PASSED by the Town Council of the Town of Eatonville and attested by the Clerk
in authentication of such passage this ____ day of _____, 2016.

Mike Schaub
Mayor

ATTEST:

Kathy Linnemeyer
Town Clerk

APPROVED AS TO FORM:

Gregory A. Jacoby
Town Attorney

Chapter 13.36

RENEWABLE ENERGY COST RECOVERY INCENTIVE PROGRAM

Sections:

- 13.36.010 Purpose.
- 13.36.020 Policy.
- 13.36.030 Responsibility.
- 13.36.040 Definitions.
- 13.36.050 Application.
- 13.36.060 Provisions.
- 13.36.070 Certificate of completion.
- 13.36.080 Required findings - Exceptions.

13.36.010 Purpose.

The purpose of this Chapter is to establish procedures to enable the Town of Eatonville's electric utility customers to qualify for benefits through the Washington State Renewable Energy System Cost Recovery Incentive program applicable to Qualified Renewable Energy Projects.

The provisions of this policy are intended to be consistent with the requirements of the portions of Chapter 82.16 RCW and WAC 458-20-273 as initially adopted, and or, subsequently amended.

13.36.020 Policy.

It shall be the policy of the Town of Eatonville, herein referred to as the Town, to participate in the Washington State Renewable Energy System Cost Recovery Incentive program as set forth in 2005 SSB 5101 as initially adopted, and or, subsequently amended for qualifying projects. .

13.36.030 Responsibility.

The responsibility for implementation of this policy shall be the Town Administrator working through and with the Director of Public Works.

13.36.040 Definitions.

A. "Application" means the Town's Application for Participation in the Renewable Energy System Cost Recovery Incentive program provided by the applicant to the Town that initiates the process.

B. "Certificate of completion" means the certificate furnished by the Town to be

completed by the applicant and the electrical inspector having jurisdiction over the installation of the facilities indicating completion of installation and inspection of the generating facility.

C. "Certification" means documentation verifying that the project is a Qualified Renewable Energy Project provided under the Washington State Renewable Energy System Cost Recovery Incentive Program as certified by the Washington State Department of Revenue.

D. "Customer" means any person, corporation, partnership, government agency, or other entity that pays for and takes service from the Town's Electric Utility.

E. "Customer in good standing" means a new customer that has made all deposits required by EMC 13.36.080 and has had no delinquent penalties assessed in the preceding twelve (12) months.

F. "Electric System" means all electrical wires, equipment, and other facilities owned or provided by the Town that are used to transmit electricity to customers.

G. "Generating facility" means a source of electricity provided by a Qualified Renewable Energy Project owned by the applicant that is located on the applicant's side of the meter, and all facilities ancillary and appurtenant thereto, including a meter base for a Town-provided production meter that may or may not be interconnected with the electric system

H. "Incentive payment" means that subsidy provide by the Town to the applicant for power generated between July 1 and June 30 of each year in the amount defined in RCW 82.16.120(4); provided that the total incentive payments to the customer shall not exceed \$5,000 in any fiscal year. Customer shall not be eligible for any payments for electricity generated prior to [insert date Town's program will be effective] or after June 30, 2020.

I. "Town" shall mean the Town of Eatonville.

J. "Qualified Renewable Energy Project" means a source of electricity provided by wind system, solar system, or certain type of anaerobic digester that processes manure from cattle into biogas and dried manure using microorganisms in a closed oxygen free

container as set forth in Chapter 82.16 RCW and WAC 458-20-273, and that is certified by the Washington State Department of Revenue as a qualifying project.

13.36.050 Application.

A. Applications under this Chapter will only be accepted after the customer provides verification that the project is a Qualified Renewable Energy Project. Upon receipt of the necessary approved certification, the Town will accept completed applications and begin review and processing. The applicant seeking to participate in the program shall be a customer in good standing who shall fill out and submit a signed application. The application must be complete and information must be accurate.

B. The Town requires no fees with the application at this time but reserves the rights to do so.

C. All applications submitted under this Chapter will be reviewed by the Town for compliance and all applicable rules. If the Town, in its sole discretion, finds that the application does not comply with the provisions of this policy, the Town may reject the application.

13.42.060 Provisions.

The general terms and conditions listed in this section shall apply to all applicants and qualified renewable energy projects.

A. Application to the Town. Upon receipt of certification that the project qualifies for incentive payments, the applicant must submit a signed copy of the town's application for participation.

B. Town Agreement. If the application is approved, applicant shall execute an agreement to offer incentive payments in a form approved by the Town.

C. Annual Incentive Payments. For electricity produced after [insert date Town's program will be effective] by a Qualified Renewable Energy Project, the applicant must submit an annual incentive payment application in a form approved by the Department of Revenue for electricity generated from July 1 to June 30 with the Town by August 1st for each year thereafter until this program is discontinued. Failure to

provide an incentive payment application by this date results in forfeiture of the incentive payments for this period. Within 60 days of receipt of the incentive payment application, the Town will notify the customer whether the incentive payment will be approved or denied.

D. Incentive Payment Limitations. The amount of incentive payment requested by customer will not exceed the amount that the Town has been authorized to pay under RCW 82.16.120(4). The issuing of incentive payments by the Town is limited by the greater of: (a) fifty one hundredths of one percent (0.50%) of the utility's taxable sales under Washington law; or (b) one hundred thousand dollars (\$100,000), whichever is greater. This limitation applies to the cumulative total of all qualified incentive payments issued by the Town to applicants in a given fiscal year. Should incentive payments owed by the Town in a fiscal year exceed this limitation; the Town will reduce the applicant's incentive payment in the same proportion that it reduces all other qualified incentive payments owed in that fiscal year until the limitation is no longer exceeded.

E. Project Information. Applicant agrees to promptly furnish the Town with copies of such plans, specifications, records, and other information relating to the generating facility, as may be reasonably requested by the Town from time to time.

F. Project Compliance. The applicant acknowledges their responsibility to protect its facilities, loads, and equipment and comply with the requirements of all appropriate standards, codes, statutes and authorities.

G. Ownership. Applicant must own the property upon which the generating facility is installed, and the energy is used. Applicant shall notify the Town prior to the sale or transfer of the generating facility, or the premises upon which the facilities are located. The applicant shall not assign its rights or obligations under any agreement entered into pursuant to these rules.

13.36.070 Certificate of Completion.

A. Applicant must obtain an electrical permit and pass electrical inspection of its generating facility. Applicant shall provide

written certification to the Town that the generating facility has been installed and inspected in compliance with the local building and/or electrical codes and/or the Town's interconnection requirements or renewable generating requirements. This documentation must include a copy of the electrical inspection and certification from the Department of Revenue regarding the project's qualification for incentive payments.

B. Production Meter. Upon the Town's receipt of the customer's certificate of completion the Town will provide and install, at the customer's expense, a Town-supplied production meter.

13A2.080 Required Filings — Exceptions.

A. The Town shall maintain on file for inspection by customers, the charges, terms and conditions required for application to receive the incentive payments as set forth in the Washington State Renewable Energy System Cost Recovery Incentive for Renewable Energy Program. This information will include the following documents and contracts:

1. Washington State Department of Revenue for Renewable Energy System Cost Recovery Certification Form.
2. Application for Participation in the Renewable Energy System Incentive Payment Program.
3. The Town Agreement to Offer Incentive Payments pursuant to the Washington State Renewable Energy System Cost Recovery Incentive Program.
4. Certificate of completion.
5. Renewable Energy System Cost Recovery Annual Incentive Payment Application.
6. Process outline.



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

SEPTEMBER 23, 2009

Renewable Energy System Cost Recovery Program - Production Incentive

Effective July 1, 2009, Engrossed Substitute Senate Bill (ESSB) 6170 (Chapter 469, Laws of 2009), specifically Sections 504-506, amended 82.16 RCW to provide additional incentives for renewable energy systems. The maximum amount of customer investment cost recovery incentive payments ("incentive payments") allowed per participant has increased from \$2,000 to \$5,000 per year. The incentive payments are intended to help offset the costs associated with the applicant's purchase and use of renewable energy systems. Renewable energy systems are solar energy systems, anaerobic digesters as defined in RCW 82.08.900, or wind generators used for producing electricity.

ESSB 6170 also extended the cost-recovery incentive program for renewable energy systems to include community solar projects. As a result, community solar projects are now eligible to receive cost recovery incentive payments ("incentive payments") from participating light and power businesses at a base incentive rate of \$0.30 for each economic development kilowatt-hour of energy produced. Incentive payments for all other renewable energy systems remain at a base rate of \$0.15 for each economic development kilowatt-hour of energy produced.

Light and power businesses participating in the program may offset amounts paid to customers by taking a credit against their public utility tax liability subject to specified limitations. Prior to July 1, 2009, the credit was limited to the greater of \$25,000 or 0.25 percent. Effective July 1, 2009, ESSB 6170 increased the amount of this credit to \$100,000 or 1 percent of the utility's taxable power sales, whichever is greater. However, incentive payments to participants in a utility-owned community solar project may only account for up to 25 percent of the total allowable credit.

No incentive payments will be paid for kilowatt-hours generated after June 30, 2020. Moreover, claims for incentive payments from community solar projects may not be made for kilowatt-hours generated prior to July 1, 2009. See WAC 458-20-273 for general information about this program.

How are incentive payment rates determined under this program?

Incentive payments are calculated as follows:

Base rate X kilowatt-hours generated X economic development factor = incentive payment

Base rate: With the exception of community solar projects, the base rate for incentive payments is \$0.15 per economic development kilowatt-hour. Community solar projects are paid a base rate of \$0.30 per economic development kilowatt-hour.

Kilowatt-hours generated: The measure of the electricity produced.

Economic development factors:

- Two and four-tenths (2.4) if your system generates electricity using only solar modules manufactured in Washington;

P.O. BOX 47478 | OLYMPIA, WASHINGTON 98504-7478 | 1-800-647-7706 | [HTTP://DOR.WA.GOV](http://DOR.WA.GOV)

To inquire about the availability of this document in an alternate format for the visually impaired, please call (360)705-6715. Teletype (TTY) users please call 1-800-451-7985.

- One and two-tenths (1.2) if your solar or wind system uses an inverter manufactured in Washington;
- One (1.0) if your wind system uses only blades manufactured in Washington, or if your system is an anaerobic digester, or if your solar system is other than described above; and
- Eight-tenths (0.8) if your system is a wind generator with blades not manufactured in Washington.

The above factors are cumulative. For example, if your system is solar and has both solar modules and an inverter manufactured in Washington, you would compute your economic development hours by using the factor three and six-tenths (3.6) (computed 2.4 plus 1.2).

What limitations are placed on incentive payments made under this program?

- Beginning July 1, 2009, incentive payments are limited to \$5,000 per year per individual, household, business, local government, and for each participant in a community solar project. Prior to July 1, 2009, annual incentive payments were limited to \$2,000.
- If requests for the investment cost recovery incentive payments exceed the amount of funds available for credit to the participating light and power business, the incentive payments shall be reduced proportionately for qualifying customers of that business.
- No incentive payments will be paid for kilowatt-hours generated after June 30, 2020.
- Claims for incentive payments from community solar projects may not be made for kilowatt-hours generated prior to July 1, 2009.

What limitations are placed on credits available to participating light and power businesses making incentive payments?

- The credit taken for the fiscal year against a power distribution business' public utility tax liability is limited to 1 percent of the business' power sales taxable under RCW 82.16.020(1)(b) or \$100,000, whichever is greater. Prior to July 1, 2009, the credit was limited to the greater of \$25,000 or 0.25 percent of the business' taxable power sales.
- Incentive payments to participants in a utility-owned community solar project may only account for up to 25 percent of the total allowable credit.
- The credit taken by power companies may not exceed the taxes due.
- Incentive payments made in one fiscal year and not taken as a credit cannot be carried over to the next year and taken as a credit.
- Refunds cannot be granted in place of credits for incentive payments.

Who may apply for incentive payments?

Individuals, businesses and local government entities that are not in the light and power business or gas distribution business, and participants in a community solar project may apply to their light and power provider for annual incentive payments for customer-generated electricity by a qualified renewable energy system.

"Customer-generated electricity" means a community solar project or the alternating current electricity that is generated from a renewable energy system located on an individual's, business', or local government's real property that is also provided electricity generated by a light and power business. Except for community solar projects, a system located on a leasehold interest does not qualify.

How do I apply for the program?

Step 1: Contact your light and power company and find out if the company participates in the program. Light and power companies are not required to participate.

Step 2: Submit a *Renewable Energy Cost Recovery Certification* or *Community Solar Project - Renewable Energy System Cost Recovery Certification* form to the Department of Revenue (the "Department"). Both forms are available on the Department's web site at <http://dor.wa.gov> under "Get a form or publication."

Step 3: You will be notified in writing (by mail or electronically) within 30 days of the Department's receipt of the certification form whether your renewable energy system qualifies for the incentive program.

Once I'm certified, how do I apply for an incentive payment?

Submit either a *Renewable Energy System Cost Recovery Annual Incentive Payment Application* or a *Community Solar Project - Renewable Energy System Cost Recovery Annual Incentive Payment Application* to the light and power business by August 1 of each year. The light and power business will notify you within 60 days of receipt whether the incentive payment is authorized or denied. Both forms are available on our web site at <http://dor.wa.gov> under "Get a form or publication."

What are the definitions I need to know?

"Anaerobic digester" means a facility that processes manure from livestock into biogas and dried manure using microorganisms in a decomposition process within a closed, oxygen-free container (RCW 82.08.900).

"Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated electricity multiplied by the appropriate economic development factor.

"Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale and/or for the wheeling of electricity for others.

"Local governmental entity" means any unit of local government of this state including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.

"Nonprofit organization" means an organization exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of January 1, 2009.

"Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

"Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

"Utility" means a light and power business, an electric cooperative, or a mutual corporation that provides electricity service.

Where can I get more information?

For more information, contact the Department's Telephone Information Center at 1-800-647-7706. You can also visit our Tax Incentives page online at <http://dor.wa.gov>. Under "Quick Clicks," select "Tax incentive programs."

See WAC 458-20-273 for general information about this program



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

MAY 6, 2010

Renewable Energy Cost Recovery Incentive Program Modifications to Program

Background

Effective June 10, 2010, Engrossed Substitute Senate Bill 6658 (Chapter 202, Laws of 2010) amends RCW 82.16.110 through 82.16.140 and adds a new section to 82.16 regarding the renewable energy cost recovery incentive available to individuals, businesses, local government entities, and participants in a community solar project.

Under existing law, the incentive program provides a credit against public utility tax (PUT) liability to participating light and power businesses for amounts paid as incentives for community solar projects (CSPs) or renewable energy systems that produce customer-generated electricity. The maximum annual incentive payment is \$5,000. The maximum annual PUT credit that can be taken by a light and power business during a fiscal year is one percent of the business's taxable power sales or \$100,000, whichever is greater.

Summary of general bill changes

This bill makes general changes to the incentive program including:

- Requires that participating renewable energy systems must be located in Washington;
- Reduces the maximum annual PUT credit to the greater of one-half percent of a light and power business's taxable power sales or \$100,000; and
- Clarifies that the restriction on light and power businesses with greater than 1,000 megawatt hours of annual sales does not apply to those light and power businesses participating in a utility-owned CSP.

Summary of changes to community solar project provisions

The bill also makes the following changes to the CSP portion of the incentive program:

- Each member of a company-owned CSP is eligible for an incentive payment in proportion to each ownership share, up to \$5,000 per year. With respect to CSPs, a "company" means a limited liability company, a cooperative, or a mutual association.
- The eligibility of a CSP to receive incentive payments is limited to those CSPs capable of generating a maximum of 75 kilowatts of electricity.
- Incentive payments to participants in a company-owned CSP may only account for up to five percent of the total allowable light and power business's PUT credit.
- Owners of CSPs are allowed to appoint an owner as administrator.
- Requires that administrators and companies receiving CSP incentive payments to keep and preserve suitable records for five years to document the amount of payments received.

P.O. BOX 47478 | OLYMPIA, WASHINGTON 98504-7478 | 1-800-647-7706 | [HTTP://DOR.WA.GOV](http://DOR.WA.GOV)

To inquire about the availability of this document in an alternate format for the visually impaired, please call (360)705-6715. Teletype (TTY) users please call 1-800-451-7985.

- Except for utility-owned CSPs, CSP owners are required to hold the participating light and power business and its employees harmless for their good faith reliance on the information in an application or certification submitted by an administrator or company.

No incentive payments will be paid for kilowatt-hours generated after June 30, 2020.

**For more
information**

Contact the Department's Telephone Information Center at 1-800-647-7706. You can also visit our Tax Incentives page online at <http://dor.wa.gov>. Under "Quick Clicks," select "Tax incentive programs."

Renewable Energy System Cost Recovery Incentive Payment Program

This publication does not cover every aspect of the Renewable Energy System Cost Recovery Incentive Payment Program. It also doesn't change or overrule administrative regulation or ruling issued by the Department of Revenue.

What is the Renewable Energy System Cost Recovery Incentive Payment Program?

This program gives you an incentive payment if you own an eligible renewable energy system. The incentive payment is meant to offset your financial costs for putting in the system, and it is based on the total electricity produced by your system from July 1 to June 30 of each year.

This program is voluntary and is at the discretion of the utilities. Your local electrical utilities provider will issue payments to you.

This program expires June 30, 2020. No incentive payments will be made for electricity generated after the program's expiration date.

What qualifies as a renewable energy system?

- A solar energy system used to generate electricity.
- An anaerobic digester that processes livestock manure into biogas. The biogas (such as methane) then fuels a generator that creates electricity.
- A wind generator used to produce electricity.

How can I participate in the program?

1. Contact your local electrical utility provider to determine if they participate in the program since **utility participation is voluntary**.
2. Discuss interconnection agreements and equipment requirements with your provider.
3. After you install your renewable energy system and receive a final electrical inspection, file with the Department of Revenue (DOR) for your system's certification. **(Incomplete applications will cause a delay in the review process.)**
4. You will receive a letter from DOR that informs you if your system is certified and at what rate your production incentive will be calculated.
5. Contact your utility provider and ask if they provide you with the annual incentive payment application or if you should use the application form on DOR's website.

6. File your application for incentive payment with your utility provider to receive your incentive payment (usually once a year by August 1).
7. The provider will send you a check or credit your account before December 15.

Who may receive an incentive payment?

- Any individual, household, business, or local government entity (not in the light and power business or gas distribution business) that owns a qualified renewable energy system installed on property they own in Washington. The system owner must also be a customer of the electrical utility that serves the site of the system.
- Owners of a standard-community solar project (CSP), ratepayers in a utility-owned community solar project, or members of a company-owned community solar project.

What is the maximum amount of incentive payment I can receive?

The limit is \$5,000 per year for any individual, household, business, or local government entity. The limit is based on all systems or projects that you own or participate in during the year. The limit is not calculated on a per system or project basis.

How is the incentive payment calculated?

The incentive payment rate is based on the type of system, whether the system contains components approved by DOR as "Made in Washington," and if it is a single-owned system or a community solar project (CSP). The rates are as follows:

- Solar modules made in state – \$0.36 (\$0.72 CSP)
- Solar or wind generator equipment with an inverter made in state – \$0.18 (\$0.36 CSP)
- Solar modules and inverters made in state - \$0.54 (\$1.08 CSP)
- Anaerobic digester; solar equipment made outside the state - \$0.15 (\$0.30 CSP)
- For all other electricity produced by wind – \$0.12

A current list of components approved to receive the "Made in Washington" incentive payments is at: <http://dor.wa.gov/Docs/Pubs/IndustSpecific/ManufacturingList.pdf>

What if my utility provider says it has exceeded its annual allowable credit amount?

If your utility provider receives requests for incentive payments that exceed its allowable credit, it must reduce the incentive payment amount made to you and all other applicants.

Questions?

Call our Telephone Information Center at 1-800-647-7706.

Reference: *Washington Administrative Code (WAC) 458-20-273.*